REMARKS

This is in response to the non-final Office Action mailed June 7, 2007. By this response, Applicant has amended claims 1, 8 and 13. The claims are fully supported by the original specification, and no new matter has been added as a result of these amendments.

In view of the foregoing amendments and the following discussion, Applicant submits that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

Claim Objections

Claims 1-2, 4-6, 8-9, 11-12 and 22-23 are objected to because in claim 1, line 16, the recitation "the at least one partition" should be –at least one partition–. In view of the amendments to claims 1, 8 and 13, the Applicant respectfully submits that "the at least one partition" is now correct. Therefore, the objections should be withdrawn.

35 U.S.C. §103 Rejection of Claims 1-2, 6, 8-9, 13-16, 19 and 22-23

Claims 1-2, 6, 8-9, 13-16, 19 and 22-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sie et al. (6,973,662,hereinafter "Sie") in view of Thomas Huston et al. (US 2002/0007402, hereinafter "Huston") and further in view of Gordon (5,920,700, hereinafter "Gordon"). Applicant respectfully traverses the rejection.

The Applicant respectfully submits that Sie, Huston and Gordon, alone or in any permissible combination, fail to teach or suggest establishing, by a cable television system operator, a resource lease with each of at least one content provider, each content provider storing at least some of a plurality of video assets within a leased resource at at least one cable television system operator location, said leased resource comprising a

memory resource, wherein said resource lease determines a size of at least one partition assigned to said at least one content provider, generating usage statistics **and** content-centric data, wherein said usage statistics comprise data relating to operation of said leased resource and said content-centric data comprises data related to consumption of content, or providing said usage statistics and content-centric data to said at least one content provider as positively claimed by Applicant's independent claims 1, 8 and 13.

In one embodiment, the Applicant's invention teaches that the partition sizes may be different sizes depending upon the needs of the content suppliers and commercial arrangements negotiated with the service operator. (See e.g., Applicant's specification, p. 4, l. 34 – p. 5, l. 1). Thus, the content supplier may have flexibility in deciding how much risk they would like to have allocated between themselves and the service provider.

Sie, Huston and Gordon, alone or in any permissible combination, fail to teach or suggest establishing, by a cable television system operator, a resource lease with each of at least one content provider, each content provider storing at least some of a plurality of video assets within a leased resource at at least one cable television system operator location, said leased resource comprising a memory resource, wherein said resource lease determines a size of at least one partition assigned to said at least one content provider. Notably, all three references are silent as to this feature.

Furthermore, Sie, Huston and Gordon fail to teach or suggest generating usage statistics **and** content-centric data, wherein said usage statistics comprise data relating to operation of said leased resource and said content-centric data comprises data related to consumption of content. Notably, Sie and Gordon at best only teach generating content-centric data. However, the Applicant's invention teaches generating usage statistics **and** content-centric data. As amended, the claims clarify that usage statistics relate to operation of said leased resources. For example, usage statistics relate to the loading or utilization levels of the server complex and the controller may identify those servers that are overutilized and responsively migrate users and/or titles to relatively underutilized servers. (See e.g., Applicant's specification, p. 11, ll. 27-34). However, Sie only teaches generating information user specific information, club specific information and programming information. (See Sie, col. 4, ll. 37-50). Moreover, Gordon only teaches

space configuration based upon actual asset usage (i.e. content-centric data). (See Gordon, col. 8, ll. 41-43). Therefore, Sie, Huston and Gordon fail to teach or suggest all of the limitations in Applicant's independent claims 1, 8 and 13.

Moreover, Sie fails to teach or suggest providing said usage statistics and content-centric data to said at least one content provider. The Examiner concedes this in the office action. (See Office Action, p. 5, ll. 14-15). However, the Examiner alleges that Huston bridges the substantial gap left by Sie.

The Applicant respectfully submits that Huston fails to bridge the substantial gap left by Sie because Huston also fails to teach or suggest providing said usage statistics and content-centric data to said at least one content provider. Instead, Huston teaches that a content provider is informed about whether certain caches and content have been updated (e.g., paragraph 65-66) based on two queues, one for storing requests to delete and retrieve content, and the other for storing requests that cannot be processed. Such information relates only the status of the content, but not usage statistics or content-centric data.

In addition, the Applicant maintains that there is no motivation to combine Sie, Huston and Gordon. Specifically, Sie and Gordon relate to managing TV programming assets and distribution, while Huston is directed specifically to managing and providing contents over the internet. Since internet hosting is fundamentally different from cable television operation, both from business and operational viewpoints, there is no motivation to combine the teachings of Sie and Gordon with that of Huston.

For example, there is no suggestion in Sie or Gordon regarding any need or desirability for leasing a service provider's resource to the content provider, or for providing content-centric data to the content provider. In Sie, memory resources are separately managed by the content and service providers, and interactions between the program server with the cable television provider are sufficient to ensure the provisioning of additional programs to users. Gordon teaches an intelligent asset management system that includes scheduling, resource, configuration and reporting managers. System activity and user input and demands are provided for use by the system operators (e.g., Abstract). Since Gordon does not contemplate any shared management responsibilities between the

interactive TV service provider and content provider, there is also no need for a content provider to lease any memory resource from a service provider.

Given the vastly different operations between TV programming and Internet hosting, and absent any suggestions in Sie or Gordon of a need for alternative resource management, or suggestion in Huston regarding the adaptability of internet content management to TV programming, the provision of leased resource to a content provider for cable television is only obtainable through hindsight based on Applicant's disclosure.

As such, Applicant submits that, even if combined, Sie, Huston and Gordon, do not render obvious Applicant's claim 1. Therefore, independent claim 1 is patentable over the combination of Sie, Huston and Gordon under §103.

Independent claims 8 and 13 recite relevant limitations similar to those recited in independent claim 1. As such, for at least the reasons discussed above, independent claims 8 and 13 also are not obvious and are patentable over the combination of Sie, Huston and Gordon under 35 U.S.C. §103.

Furthermore, claims 2, 6, 9, 14-16, 19 and 22-23 depend, either directly or indirectly, from independent claims 1, 8 and 13 and recite additional features. Since Sie in view of Gordon and Huston do not render obvious Applicant's invention as recited in claims 1, 8 and 13, dependent claims 2, 6, 9, 14-16, 19 and 22-23 are also not obvious and are patentable over Sie in view of Huston and Gordon under 35 U.S.C. §103.

As such, the Applicant respectfully requests the rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 4-5 and 11-12

Claims 4-5 and 11-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sie in view of Huston and Gordon as applied to claim 1 or claim 8 above, and further in view of Carlin et al. (U.S. 6,119,152, hereinafter "Carlin"). Applicant respectfully traverses the rejection.

Claims 4-5 and 11-12 depend directly or indirectly from independent claims 1 and 8. Moreover, for at least the reasons discussed above, Sie in view of Huston and Gordon do not render obvious Applicant's invention as recited in claims 1 and 8. Accordingly, any attempted combination of the Sie, Huston and Gordon references with any other additional

references in a rejection against the dependent claims would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicant submits that dependent claims 4-5 and 11-12 are not obvious and are patentable over Sie in view of Huston and Gordon and further in view of Carlin under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claim 17

The Examiner has rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Sie in view of Huston and Gordon as applied to claim 13, and further in view of Martin et al. (U.S. 6,606,607, hereinafter "Martin"). Applicant respectfully traverses the rejection.

Claim 17 depends directly from claim 13. Moreover, for at least the reasons discussed above, the Sie reference do not render obvious Applicant's claimed invention as a whole as recited in independent claim 13. Accordingly, any attempted combination of the Sie reference with any other additional references In a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claims. As such, Applicant submits that dependent claim 17 is patentable over Sie in view of Huston and Gordon as applied to claim 13, and further in view of Martin under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicant's disclosure than the primary references cited in the Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

CONCLUSION

In view of the foregoing remarks, Applicant believes that this application is in condition for allowance. Reconsideration of this application and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Chin (Jimmy) Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 9/6/07

Eamon J. Wall, Attorney
Registration No. 39,414

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808